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Ninety-Five Madison Company, L.P.*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

| | | |
|------------------------------------|---|-------------------------|
| |) | Chapter 11 |
| In re: |) | |
| |) | Case No. 21-10529 (DSJ) |
| NINETY-FIVE MADISON COMPANY, L.P., |) | |
| |) | |
| Reorganized Debtor. |) | |
| |) | |

**REORGANIZED DEBTOR NINETY-FIVE MADISON COMPANY L.P.'S
STATEMENT OF ISSUES AND DESIGNATION OF THE RECORD ON APPEAL**

Reorganized Debtor and Appellant Ninety-Five Madison Company, L.P. (“NFMC”), by and through its undersigned counsel, hereby provides, pursuant to Rule 8009 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rule 8009-1 of the Local Bankruptcy Rules for the Southern District of New York (the “Local Bankruptcy Rules”), the following statement of issues, designation of items to be included in the record on appeal, and certification regarding transcripts (this “Statement”) with respect to NFMC’s appeal from the Bankruptcy Court’s *Decision On Application of Branton Realty Services LLC for Compensation and Reimbursement of Expenses* [Docket No. 420] and associated *Amended Order Granting Final Fee Application of Branton Realty Services LLC and Related Relief* [Docket No. 434], as set forth in NFMC’s *Notice of Appeal* [Docket No. 438].

STATEMENT OF ISSUES ON APPEAL

1. Did the Bankruptcy Court err in holding that NFMC breached its contractual obligations, including its referral obligations, under the Listing Agreement for Sale, and that such breach entitled Branton Realty Services LLC (“Branton”) to contractual damages?
2. Did the Bankruptcy Court err in concluding that, but for NFMC’s breach, Branton would have procured a tour with the ultimate buyer of the building located at 95 Madison Avenue, New York New, York 10016 (the “Property”), notwithstanding unrebutted testimony that Two Bins Capital LLC (“Two Bins”) refused to work with Branton in any capacity and/or tour the Property during Branton’s term?
3. Did the Bankruptcy Court err in concluding that the Listing Agreement for Sale constituted an “exclusive right to sell” contract under New York law?
4. Did NFMC satisfy its referral obligations under the Listing Agreement for Sale by providing Branton with the contact information for Two Bins on multiple occasions?

DESIGNATION OF RECORD ON APPEAL

NFMC respectfully designates the following items for inclusion in the record on appeal pursuant to Bankruptcy Rule 8009(a) and Local Bankruptcy Rule 8009-1(a). Each designated item shall also include *all filed exhibits attached to such item*. NFMC also designates this *Statement of Issues and Designation of Record on Appeal* for inclusion in the record on appeal.

Chapter 11 Docket (Case No. 21-10529 (DSJ))

| Docket No. | Date Filed | Description |
|-------------------|-------------------|--|
| 1 | 3/22/2021 | Chapter 11 voluntary petition |
| 10 | 4/1/2021 | Declaration Under Penalty of Perjury for Non-Individual Debtors (Official Form 202) (including all exhibits attached thereto) |
| 13 | 4/6/2021 | Declaration of Rita A. Sklar Pursuant to Local Bankruptcy Rule 1007-2 |
| 176 | 8/19/2022 | Application to Employ Branton Realty Services LLC as Real Estate Broker & Sales Agent |
| 181 | 8/31/2022 | Order Authorizing the Retention and Employment of Branton Realty Services LLC as Real Estate Broker & Sales Agent to the Debtor, Nunc Pro Tunc to August 17, 2022 |
| 194 | 12/8/2022 | Declaration of Andrew K. Glenn in Connection with the Motion of Ninety-Five Madison Company, L.P. for an Order (I) Authorizing Debtor to Obtain Postpetition Debtor-In-Possession Financing, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Modifying the Automatic Stay, and (IV) Granting Related Relief (including all exhibits attached thereto) |
| 234 | 5/1/2023 | Supplemental Application of Debtor Ninety-Five Madison Company, L.P. for an Order Amending the Order Pursuant to 11 U.S.C §§ 327(a) and 328(a) Authorizing the Retention and Employment of Branton Realty Services LLC |
| 242 | 5/22/2023 | Transcript of Hearing Held on 05/17/23 |
| 243 | 5/25/2023 | Order Amending the Order Authorizing the Retention and Employment of Branton Realty Services LLC as Real Estate Broker and Sales Agent |
| 274 | 9/27/2023 | Combined Chapter 11 Plan and Disclosure Statement of Debtor Ninety-Five Madison Company, L.P. |

| Docket No. | Date Filed | Description |
|------------|------------|---|
| 294 | 12/15/2023 | Notice of Amended Combined Chapter 11 Plan of Reorganization and Disclosure Statement for Debtor Ninety-Five Madison Company, L.P. |
| 300 | 12/21/2023 | Order Approving and Confirming Debtor's Amended Combined Chapter 11 Plan of Reorganization. |
| 323 | 2/20/2024 | Notice of Occurrence of Effective Date to Chapter 11 Plan |
| 325 | 3/1/2024 | Debtors Motion Pursuant to Sections 105, 363, 365 and 1146 of the Bankruptcy Code and Rules 2002, 6004, 6006 and 9014 of the Federal Rules of Bankruptcy Procedure for Entry of an Order (I) Approving the Sale of the Property Free and Clear of All Liens, Claims, Encumbrances and Interests |
| 326 | 3/1/2024 | Declaration of Michael Sklar in Support of Debtors Motion Pursuant to Sections 105, 363, 365 and 1146 of the Bankruptcy Code and Rules 2002, 6004, 6006 and 9014 of the Federal Rules of Bankruptcy Procedure for Entry of an Order (I) Approving the Sale of the Property Free and Clear of All Liens, Claims, Encumbrances and Interests (Except Permitted Encumbrances), (II) Approving the Assumption and Assignment of Executory Contracts and Unexpired Leases Related Thereto, and (III) Granting Related Relief |
| 336 | 3/22/2024 | Motion to Sell Property Free and Clear of Liens Under Section 363(f) - <i>Redacted</i> |
| 343 | 4/9/2024 | Objection to Motion (Limited) re: Debtor Ninety-Five Madison Company, L.P.'s Motion Pursuant to Sections 105, 363, 365 and 1146 of the Bankruptcy Code and Rules 2002, 6004, 6006 and 9014 of the Federal Rules of Bankruptcy Procedure |
| 347 | 4/15/2024 | Debtors Omnibus Reply in Support of the Motion Pursuant to Sections 105, 363, 365 And 1146 of the Bankruptcy Code and Rules 2002, 6004, 6006 and 9014 of the Federal Rules of Bankruptcy Procedure for Entry of an Order (I) Approving the Sale of the Property Free and Clear of All Liens, Claims, Encumbrances and Interests (Except Permitted Encumbrances), (II) Approving the Assumption and Assignment of Executory Contracts and Unexpired Leases Related Thereto, and (III) Granting Related Relief |
| 357 | 4/24/2024 | Transcript of Hearing Held on 04/18/2024 |

| Docket No. | Date Filed | Description |
|-------------------|-------------------|--|
| 358 | 5/2/2024 | Order (I) Approving the Sale of the Property Free and Clear of All Liens, Claims, Encumbrances and Interests (Except Permitted Encumbrances), (II) Approving the Assumption and Assignment of Executory Contracts and Unexpired Leases Related Thereto, and (III) Granting Related Relief. |
| 361 | 6/3/2025 | Amended and Restated Order (I) Approving the Sale of the Property Free and Clear of All Liens, Claims, Encumbrances and Interests (Except Permitted Encumbrances), (II) Approving the Assumption and Assignment of Executory Contracts and Unexpired Leases Related Thereto, and (III) Granting Related Relief. |
| 362 | 6/4/2024 | Final Application for Final Professional Compensation for Branton Realty Services LLC |
| 363 | 6/5/2025 | Second Amended and Restated Order (I) Approving the Sale of the Property Free and Clear of All Liens, Claims, Encumbrances and Interests (Except Permitted Encumbrances), (II) Approving the Assumption and Assignment of Executory Contracts and Unexpired Leases Related Thereto, and (III) Granting Related Relief. |
| 365 | 6/25/2024 | Weinstein Estate's Objection to Application of Branton Realty Services LLC |
| 390 | 12/17/2024 | Branton Realty Services LLCs Pre-Hearing Memorandum |
| 391 | 12/17/2024 | Declaration of Jordan Reisch in Support of Branton Realty Services LLCs Pre-Hearing Memorandum |
| 392 | 1/8/2025 | Reorganized Debtor Ninety-Five Madison Company, L.P.s Memorandum in Opposition to the Final Fee Application of Branton Realty Services LLC |
| 397 | 1/14/2025 | Branton Realty Services LLCs Reply Brief |
| 398 | 1/14/2025 | Declaration of Warren M. Heller |
| 399 | 1/15/2025 | Declaration of Michael Sklar |
| 400 | 1/15/2025 | Declaration of Emanuel Westfried |
| 401 | 1/16/2025 | Declaration of Warren M. Heller (corrected) |
| 406 | 1/25/2025 | Notice of Filing of Hearing Demonstrative Utilized at January 24, 2025 Hearing |
| 408 | 1/28/2025 | Transcript of Hearing Held on 1/22/2025 |
| 412 | 2/11/2025 | Transcript of Hearing Held on 1/23/2025 |
| 415 | 2/13/2025 | Transcript of Hearing Held on 1/24/2025 |

| Docket No. | Date Filed | Description |
|-------------------|-------------------|---|
| 420 | 3/27/2025 | Decision on Application of Branton Realty Services LLC for Compensation and Reimbursement of Expenses |
| 421 | 4/2/2025 | Declaration of Jordan Reisch |
| 433 | 5/8/2025 | Order Granting Final Fee Application of Branton Realty Services LLC and Related Relief |
| 434 | 5/8/2025 | Amended Order Granting Final Fee Application of Branton Realty Services LLC and Related Relief |
| 438 | 5/22/2025 | Notice of Appeal of Decision on Fee Application of Branton Realty Services LLC |

Other Items¹

| Exhibit No. | Description |
|--------------------|--|
| 1 | NFMC's Trial Exhibit List (including all exhibits attached thereto) |
| 2 | Branton's Trial Exhibit List (including all exhibits attached thereto) |

STATEMENT REGARDING TRANSCRIPTS

Pursuant to Bankruptcy Rule 8009(b)(1), NFMC hereby certifies that it is not ordering any transcripts. All relevant transcripts have been prepared, are filed on the Chapter 11 docket, and are designated in the foregoing designation of the record.

RESERVATION OF RIGHTS

NFMC expressly reserves the right to (i) withdraw, supplement, amend or modify this Statement and (ii) move to strike any items included by the Appellee in a designation of additional items. This filing is made expressly subject to, and without waiver of any and all rights, remedies, challenges, and objections.

¹ All other designations not filed on the Chapter 11 docket are attached hereto as exhibits to this Statement.

Dated: June 11, 2025
New York, New York

By: /s/ Andrew K. Glenn

Andrew K. Glenn

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